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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,831	09/12/2003	Wade Littleton	21694.00	1531

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EXAMINER

EVANS, CHIVONNE LAURIE

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,831

Applicant(s)

LITTLETON ET AL.

Examiner

Chivonne L. Evans

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2,4-5,7 and 9 are rejected under 35 U.S.C. 102(bas being anticipated by Seneca (5219340). With regards to claim 1, Seneca discloses a colloidal solution applicator in pouch form, whereas colloidal oatmeal is powdered or pulverized oatmeal contained within the pouch, which has a plurality of layers porous material with sealed edges Column 4, Lines 1-30. With regards to claim 2, Seneca shows that the plurality of layers have a top layer and a bottom layer formed of porous materials as shown in figure 3 and further explained in Column 5, lines 25-27. With regards to claims 4 and 5, Seneca reveals that the pouch is formed from batiste cotton or other cotton combinations whereas batiste is a thin plain-weave (woven) cotton or linen fabric and gauze is simply defined as a woven cotton cloth used for dressing, bandages and absorbent materials, (Column 6, lines 15-20). With regards to claims 7 and 9, chafe-reducing is defined as reducing irritation to the skin caused by friction and medicated is defined as containing something that serves as a remedy or is corrective, therefore, the non abrasive porous material and the colloidal oatmeal contained in the pouch taught by Seneca is sufficient for preventing irritation or scratching of the skin as well as relieving rashes by soothing inflamed skin,

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conditioning the skin, fighting acne, restoring proper PH to the skin ...etc,

Column 5, lines 12-21.

3. Claims 1,6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Laughridge (5964641). Laughridge teaches a pouch or a pocket that contains odor controlling, moisture absorbing powders, that are inserted in a pouch attached to the inner surface of the undergarment, i.e. brassiere wherein the material the pouch is made of is porous (defined as able to absorb fluids).

(Column 4, lines 27-42 and Column 5, lines 1-5)

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seneca (5219340) in view of Raducu (DE0401010). Seneca discloses the invention substantially as claimed except for a pouch made of linen material as claimed by the applicant. Raducu teaches a granulated mixture (i.e. of oats) packed in small linen bags or pouches used for body care, as stated in the abstract of the published document. It would have been obvious to one skilled in the art at the time of the invent to provide Seneca's pouch with a linen material,

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as taught by Raducu to provide a porous, soft but effective topical solution (i.e. powder) delivery applicator.

Examiner's note to applicant:

In the parent claim, and depending claims thereof submitted by the applicant, the applicant uses functional language. The functional language (i.e. powder dispensing...), was not overlooked, however, the applicant is reminded that the structure, not the intended use of a claimed invention is examined in submitted applications.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Burnett et al (6719740) is relevant to this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chivonne L. Evans whose telephone number is 571-272-8686. The examiner can normally be reached on between 6:30-3:30, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Chivonne L. Evans
Examiner
Art Unit 3761

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TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

